

REMARKS

The Office Action dated May 3, 2007 has been carefully considered. Claims 104-112 and 114-140 were in this application. Claim 104 was rejected and all other claims were allowable if the claims dependent on claim 104 were rewritten so as not to depend from a rejected base claim.

Claim 104 is herein canceled and claims 105, 108 and 136, which were dependent from claim 104, have been amended to be independent claims that incorporate the limitations of claim 104. This is done merely to expedite the prosecution of the case and is not an admission of agreement with the Examiner's rejection of claim 104.

Claim 105 is amended also to correct improper wording from the last amendment of that claim. Claim 105 is supported at page 64, line 16-17, and page 70, lines 24-28. Claim 106 is canceled as repetitive of claim 105. Claim 107 is amended for antecedent clarity, without adding or deleting any elements.

The only rejection is that of claim 104 as being anticipated by U.S. Pat. No. 5,262,128 to Leighton et al. (US'128). Claim 104 is canceled.

Premature Final Office Action

Applicant believes the Office Action was prematurely made Final for the following reason. Regarding the only remaining prior art, the Examiner presented a *new argument* for the rejection under 35 U.S.C. 102 relying on previously cited prior art, but on two figures *not previously brought to Applicant's attention*. These figures and the text explaining the figures do not recite the elements of the rejected claim 104, so it was not possible to foresee that the Examiner would make a new rejection based on these figures. However the Examiner made a stretch in order to present a novel interpretation of the prior art, requiring an extremely loose interpretation of what is a "well," in order to provide the grounds for the rejection.

Since the text doesn't mention anything about a well in the elements that the Examiner interprets to be a well, and since it is improbable that most people could look at the figures relied upon and see a well, Applicant is being denied the opportunity to fully develop a rebuttal to this

rejection if the Office Action is made Final. Thus, the finality of the office action is improper according to MPEP 707.07:

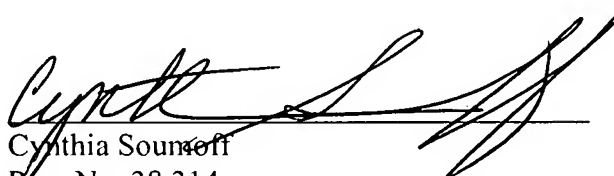
Present practice does not sanction hasty and ill-considered final rejections. The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application. The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal.

For this reason, Applicant requests that the rejection be considered non-final.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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